

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

---

CHARLES RASO, TRUSTEE  
of the MASSACHUSETTS BRICKLAYERS  
AND MASONS HEALTH AND WELFARE,  
PENSION AND ANNUITY FUNDS,

Plaintiff,

v.

STONEWORKS BY RAND  
Defendant.

---

C. A. No. 03cv12535 RCL

**JOINT STATEMENT AND PROPOSED PRETRIAL SCHEDULE**

Pursuant to the Notice of Scheduling Conference issued by this Court, counsel for the parties have conferred for the express purpose of (1) preparing an agenda of matters to be discussed at the March 10, 2004 scheduling conference, (2) preparing a proposed pretrial schedule for the case that includes a plan for discovery, and (3) considering whether they will consent to trial by magistrate judge.

I. PARTIES' POSITIONS

A. PLAINTIFF'S POSITION

This is an action for collection of delinquent benefit fund contributions pursuant to ERISA, 29 U.S.C. §1001, *et seq.* Defendant was obligated to make payments to Plaintiff Employee Benefit Funds pursuant to its Collective Bargaining Agreement with Bricklayers and Allied Craftsmen Local Union 3 Eastern Massachusetts. A Fund audit determined that the Defendant has failed to make contributions to the Fund in the amount of \$717,956.48 in contributions, \$2,805.00 in

liquidated damages and \$32,199.48 in interest. Attorney fees and costs are also owed pursuant to Section 502 of ERISA, 29 U.S.C. §1132 (g)(2).

Plaintiff reserves his right to supplement this statement.

#### B. DEFENDANT'S POSITION

Defendant entered into a collective bargaining agreement with Bricklayers and Allied Craftsmen Local Union No. 3 in November 2001. Defendant's position is that it has made any contributions required under that collective bargaining agreement and that the audit performed by the funds is incorrect.

Defendant reserves the right to supplement this statement.

### II. JOINT DISCOVERY PLAN

As a result of the conference between counsel, parties have agreed, subject to Court approval, to prepare for trial in accordance with the following proposed pretrial schedule.

#### A. Assessment Phase

<u>Event</u>	<u>Proposed Completion Date</u>
Completion of Written Discovery	10/11/04
Completion of Fact Depositions	12/10/04

#### B. Trial Preparation Phase

Disclosure of Expert Witnesses/Testimony	11/12/04
Completion of Expert Depositions	1/12/05

### II. Schedule for Filing Motions

Motions to Amend Pleadings	4/12/04
----------------------------	---------

Motions for Summary Judgment

1/28/05

### III. TRIAL BY COURT

The Parties decline at this time to consent to a trial by magistrate.

### IV. CERTIFICATION

Counsel for each party have conferred with their respective clients pursuant to Local Rule 16.1(D)(3). Copies of those Certifications will be provided to the Court under separate cover.

For the Plaintiff,

CHARLES RASO, FUND MANAGER  
of the MASSACHUSETTS BRICKLAYERS  
AND MASONS HEALTH AND WELFARE  
PENSION AND ANNUITY FUNDS  
By his Attorney,

/s/ Catherine M. Campbell  
Catherine M. Campbell  
BBO# 549397  
Feinberg, Campbell & Zack, PC  
177 Milk Street  
Boston, MA 02109  
(617) 338-1976

For the Defendant,

STONEWORKS BY RAND

By its Attorneys,

s/s Daniel J. Blake (CMC)  
Daniel J. Blake (BBO #552922)  
Heather C. Krauss (BBO #644457)  
EPSTEIN BECKER & GREEN, P.C.  
111 Huntington Avenue, 26<sup>th</sup> Floor  
Boston, MA 02199  
(617) 342-4000

Dated: March 3, 2004